

NO: 28159

IN THE SUPREME COURT OF THE STATE OF HAWAII

C. KAUI JOCHANAN AMSTERDAM
Candidate for the US Senate

Plaintiff

vs.

DWAYNE D. YOSHINA
Chief Elections Officer for the
State of Hawaii

Defendant

PLAINTIFF'S MOTION FOR
RECONSIDERATION; EXHIBIT
A, B

KIHAIAKAOO
HAWAIIAN APPELLATE COURT
STATE OF HAWAII

2006 OCT 12 PM 3:41

FILED

PLAINTIFF'S MOTION FOR RECONSIDERATION

Plaintiff, C. Kauai Jochanan Amsterdam, hereby presents a motion for reconsideration of complaint filed in the entitled case and for an order to sustain the complaint and advance the Plaintiff to be on the General Election Ballot as a candidate for the US Senate. This motion is made pursuant to Rule 40(a)(b) et al, Hawaii Rules of Civil Procedure and is made with particularity the points of law or fact the court may have overlooked or misapprehended, together with a brief argument on the points raised and supported herewith by the Plaintiff's declaration to the effect that such a motion is presented in good faith and not for the purpose of delay.

Dated: Honolulu, Hawaii, October 12, 2006

C. Kauai Jochanan Amsterdam

C. Kauai Jochanan Amsterdam
Candidate for the US Senate
PRO SE

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C. KAUI JOCHANAN AMSTERDAM)	
Candidate for the US Senate)	
Plaintiff)	
vs.)	PLAINTIFF'S MOTION FOR
DWAYNE D. YOSHINA)	RECONSIDERATION, EXHIBIT
Chief Elections Officer for the)	A, B
State of Hawaii)	
Defendant)	

PLAINTIFF'S MOTION FOR RECONSIDERATION
MEMORANDUM IN SUPPORT
OF PLAINTIFF'S MOTION FOR RECONSIDERATION

C. KAUI JOCHANAN AMSTERDAM
1415 Pensacola St., # 12
Honolulu, Hawaii 96822
(808) 550-4994

TRUDY MILANI TAKAYAMA
Representative
(808) 959-0132

PRO SE

IN THE SUPREME COURT OF THE STATE OF HAWAII

C. KAUI JOCHANAN AMSTERDAM
Candidate for the US Senate
Plaintiff

vs.

DWAYNE D. YOSHINA
Chief Elections Officer for the
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RECONSIDERATION, EXHIBIT
A, B

MEMORANDUM OF
PLAINTIFF'S MOTION FOR RECONSIDERATION

I. INTRODUCTION

The Plaintiff, C. Kauai Jochanan Amsterdam, along with some other similar candidates, was listed on the NONPARTISAN PARTY BALLOT by the Elections Office for the 2006 Primary Election as shown in Exhibit A herein.

When the Plaintiff, C. Kauai Jochanan Amsterdam, (herewith Plaintiff) asked the Elections Office why such a listing was used, he was directed to the Defendant's Attorney, who said it was used for "Bureaucratic convenience". While such use may have been convenient for the Elections Office, it was misinforming, misleading, and confusing for the voting public, contraindicated by points of law, inconsistent with basic reasoning, and mistakingly used by the Elections Office.

2. ARGUMENT

Points of law or case law demonstrate that the Elections Office's listing of the NONPARTISAN PARTY BALLOT was contraindicated.

First, the case of In Re Kelly's Nomination, 24 Pa. D. 205, Pa. com. Pl. I9I4, established that non-partisan candidates should be listed on a Non-Partisan Primary Ballot and not a Non-Partisan Party Ballot. Accordingly, in listing non-partisan candidates on a NONPARTISAN PARTY BALLOT, Hawaii's Election

Office mistakenly violated proper listing procedure.

Secondly, in the case of Davis vs State Election Bd. of Oklahoma, 762p. 2d. 932, Okl. 1988 (Sept. 13, 1988), the court recognized in Section 5-105(A) that "candidate cannot be partisan and non-partisan at the same time". Accordingly, since he was listed by the Elections Office on the NONPARTISAN PARTY BALLOT, the Plaintiff was party affiliated, thereby partisan, and should reasonably be treated as such; otherwise, the candidate is what the court says he cannot be - partisan and non-partisan at the same time. Because the Office of Elections did what the court said not to do, it created a situation, which was inconsistent with basic reasoning. Such a situation accordingly, misinformed, misled, and confused the voting public. Such a misinforming, misleading, and confusing situation is attested to by a current complaint filed with the Supreme Court of Hawaii by Daniel Cunningham and Thirty Registered Voters, who voted in the current 2006 Primary Election of Hawaii, in which the Thirty Registered Voters attest that they were misinformed, misled, and confused by the NONPARTISAN PARTY BALLOT, as presented in their complaint NO. 28182 IN THE SUPREME COURT OF THE STATE OF HAWAII, see Exhibit B.

Thirdly, in the case of State v Torgerson, 57, N.D. 152, 220 N.W. 834, N.D. 1928 (July 28, 1928), the court ruled that that the use of the word "Party" is crucial and sufficient in changing or eliminating requirements for non-partisan candidates. According to the court,

In view of the policy clearly indicated in the general primary law to leave little room for the exercise of discretion by ministerial officers and to place upon aspirants for offices the duty of compliance with definite measure of sufficiency, we are of the opinion that the regulation and the measure of sufficiency contained in the general primary law remain applicable to the nonpartisan primary, modified only by a prohibition of the mention of

party affiliation of the candidate, which by necessary implication, in considering the number of petitions, also eliminates the 5 per cent requirement based upon the total vote cast for the candidate of the party with which the aspirant affiliates.

Accordingly, by its use of the term "Party" in the NONPARTISAN PARTY BALLOT, the Elections Office eliminated the ten per cent of the total votes cast for the office or vote equal to the lowest vote of a partisan candidate requirements pursuant to Part IV. Haw. Rev. Stat., Election Results, I2-4I Results of Elections (b) and instead applied (a) in which a person or persons receiving the greatest number of votes at the primary or special election of a candidate of a party for an office shall be the candidate of the party at the general or special election. Therefore, being unopposed and receiving the greatest number of votes at the primary or special election as a candidate of the NONPARTISAN PARTY BALLOT for the office of US Senator, the Plaintiff shall be the candidate on the NONPARTISAN PARTY BALLOT at the general or special election of 2006 for which the Plaintiff humbly asks the Supreme Court of the State of Hawaii to sustain.

Finally, in the case of In Re Kay 508 So. 2d 329, Fla., 1987 (June 04, 1987), when similar ballots were used to make them appear the same, such similarity or giving appearance that partisan Democratic or Republican parties endorsed candidacy in a non-partisan race, warrants public reprimand and a reprimand was ordered by the Supreme Court. Accordingly, by it giving appearance or similarity to partisan and non-partisan candidates alike under a party label as demonstrated in Exhibit A, the Elections Office advanced the same censored, contraindicated action, which resulted in the reprimand of the Supreme Court of Florida.

3. PRAYER AND RELIEF

Wherefore, the Plaintiff pursuant to II-I72, Haw. Rev. Stat. has set forth causes that could cause a difference in the election results due to the actions of the Elections Office mistaking using a NONPARTISAN PARTY BALLOT at odds or in contraindication

to points of law or case law, inconsistent with basic reasoning, and misinforming, misleading, and confusing for the voting public. Being Native Hawaiian and a descendant of the Kalakaua line, which dedicated, and Kamehameha V, Lot Kapuaiwa, who built Aliioli Hale, the Supreme Court Building, I express a heart felt "Mahalo" for the Supreme Court of the State of Hawaii's consideration of the Plaintiff's Motion for Reconsideration and also pray for relief as follows:

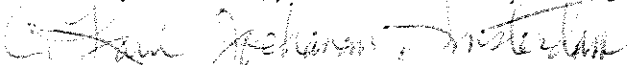
A. That based on points of law, reasoning, evidential knowledge, and all the above, the Court sustain the Plaintiff's Motion for Reconsideration.

B. That the Plaintiff's complaint be sustained and having been listed on the NONPARTISAN PARTY BALLOT be consistently treated and sustained as such consistent also with points of law or case law and as such advanced to the NONPARTISAN PARTY BALLOT of the General Election.

C. That the Court consider the Plaintiff's important and worthwhile goals to meet the needs of our Hawaiian People and People-at-large of Hawaii Nei, the United States, and the World and particularly being a Hawaiian Jew to advance the Aloha Spirit and Peace in the Middle East, which no candidates have pledged.

D. That the Court grant such and further relief as it shall deem just and proper.

Dated: Honolulu, Hawaii, October 12, 2006


G. Keui Jochanan Amsterdam
US Senator Candidate
Pro Se

PRIMARY

EXHIBIT A

STATE HOUSE McCUL
URBAN HOUSE

visit HONOLULUADVERTISER.COM

you need to know

ISTRATION

OFFICIAL PRIMARY BALLOT CARD

DEMOCRATIC PARTY BALLOT (D)
(Purple)

U.S. Senator
Vote for Not More than One (1)

AKAKA, Daniel

CASE, Ed

U.S. Representative
Vote for Not More than One (1)

ABERCROMBIE, Neil

KAAN, Alexandria

Governor
Vote for Not More than One (1)

AILA, William J., Jr.

WASE, Randy

TANABE, Van K.

Lieutenant Governor
Vote for Not More than One (1)

HENKIN, David L.

MOOK, Michael (Manu)

SHIRATORI, Miles

SOLOMON, Malama

State Representative
Vote for Not More than One (1)

TAKUMI, Roy M.

LIBERTARIAN PARTY BALLOT (L)
(Green)

U.S. Senator
Vote for Not More than One (1)

MALLAN, Lloyd Jeffrey

Governor
Vote for Not More than One (1)

DANIEL, Ozell

Lieutenant Governor
Vote for Not More than One (1)

ZHAO, Li

GREEN PARTY BALLOT (G)
(Tan)

Governor
Vote for Not More than One (1)

BREWER, Jim

Lieutenant Governor
Vote for Not More than One (1)

ING, Renee

REPUBLICAN PARTY BALLOT (R)
(Yellow)

U.S. Senator
Vote for Not More than One (1)

BEATTY, Mark

COFFEE, Jerry

COLLINS, Chas (Akacase)

FRIEDHEIM, Jay

PIRKOWSKI, Edward (Eddie)

TATAI, Steve

U.S. Representative
Vote for Not More than One (1)

HOUGH, Richard (Noah)

TERRY, Mark

Governor
Vote for Not More than One (1)

BERISH, George L.

LINGLE, Linda

MANNER, Paul

PEABODY, George

Lieutenant Governor
Vote for Not More than One (1)

NONPARTISAN PARTY BALLOT (N)
(Gray)

U.S. Senator
Vote for Not More than One (1)

AMSTERDAM, C. Kaul Joe

Governor
Vote for Not More than One (1)

CUNNINGHAM, Daniel

HARA, Bradley

MATTES, Paul J. (Co)

Lieutenant Governor
Vote for Not More than One (1)

POWELL, A.J.

BOARD OF EDUCATION
First School Board Distrk
(City & County of Honolulu)

6th Departmental School District Seat
(Windward)
Vote for Not More than One (1)

DeREGO, Kris

PENEBACKER, John R.

VIERLING, PAUL

No Departmental School District Residency
Vote for Not More than Three (3)

BASS, Michael

CHING, Darwin L.D.

GOLOJUCH, Carolyn Martinez

HOEFT, Henry W., Jr.

IKEDA, Donna R.

IWAMOTO, Kim Coco

KESSLER, Brian

KIRKPATRICK, Malcolm

KNUDSEN, Karen

LEE, Philmund (Phil)

LINVILLE, Marcia

McDERMOTT, Bob

SKILLING, Liam

STONE, Nancy J. (Pohaku)

TOM, Terrance W.H.

TSCHUMY, Ruth

YAMANE, Brian Y.

PRE-VOTE V

Fill out your choi

Political party I a
(choose one only)

U.S. Senate

U.S. House

Governor

Lt. Governor

State Senate

State House

INT

arty

maries

Plaintiffs to the Complaint Contesting
Matters in the 2006 Primary Election

EXHIBIT B

We the undersigned registered voters of the State of Hawaii, who voted in the 2006 Primary Election, present this complaint as Plaintiffs contesting the unfair treatment of Candidates of the Non-Partisan Party with claims and the misinforming, misleading, and confusing of the voting public by the Office of Elections of the State of Hawaii in the 2006 Primary Election.

Names	Address	Phone Number / Signature
Paul Matsueda	1041 8 th Ave	732-2242 <i>Paul Matsueda</i>
ALAN D. STACK	2121 ALAWAI #3202	922-1583 <i>Alan D. Stack</i>
ALTON ASAD	98-239 PAHAIA ST	487-2928 <i>Alton Asad</i>
Garret Ichioka	1435 Kaloko St.	447-3833 <i>Garret Ichioka</i>
Devin Rotkouski	936 First St.	455-8910 <i>Devin Rotkouski</i>
Madeline Leslie	1235 Aliiahua ST # F	845-4399 <i>Madeline Leslie</i>
STEVEN WILLIAMS	1326 KEEAUMOHU ST	224-6781 <i>Steven Williams</i>
KAWIKA FLORES	1576 MURPHY ST.	847-6900 <i>Kawika Flores</i>
Pasuma G. Aczon	1934 ELMORE	42-7475 <i>Pasuma G. Aczon</i>
EMERSON R. ESPINOZA	91-621 KILANNA ST. #44	806-4243 <i>Emerson R. Espinoza</i>
Barbara Jengle	44 Akama PL	283-6181 <i>Barbara Jengle</i>

Name	Address	Phone Number/ Signature
Denise Bui	94-1144 Heima St. Kaka St.	671-3015 Denise Bui
Litania Gay-ya	Waipahu, HI	618-9390 Litania
Nani Nuanu	4424 Koa St. Waipahu HI	601-6936 Nani
James R. Cayton	5175 Aiea St. Honolulu HI	373-3721 James R. Cayton
Joyce A. Morse	1671 HOOLANA PL. PEARL CITY, HI - 96782-1630	Joyce A. Morse
Winifred Kohloff	860 Halekauwila #108 Honolulu, HI 96813	808-2236418 Winifred Kohloff
Rodney S. Lam	922 Kapahulu Ave #205 Hon. HI 96816	808-523-1664 Rodney S. Lam
Bralley G. Hiyuki	1120 Hassinger St #202 Hon. HI 96822	808-523-7224 Bralley G. Hiyuki
James Ward	1630 Liholiho St. Hon. HI 96814	808-524-1742 James Ward
Winifred Garcia	1150 Kinau St. #209 Hon. HI 96814	282-1716 Winifred Garcia

Continued

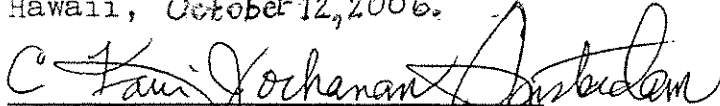
Name	Address	Phone Number/ Signature
FLORDELIZ OLIVESTAD	1616 Kewalo St. #207	531-5812 <i>flordeliz</i>
Wally K Wong	1616 Kewalo St. #207	531-5812 <i>OK Wong</i>
RAYMOND OLIVESTAD	1616 KEWALO #207	531-5812 <i>Raymond Olivestad</i>
Bryan Ogata	1519 Piikoi St. Apt #2	526-2486 <i>Bryan Ogata</i>
Ken Humphries	91-1016 Pawaia Pl Kapolei, HI	96707 <i>Ken Humphries</i>
Terry Marks	1314 Piikoi St	Hon HI 96814 <i>Terry Marks</i>
Ravena K. Keaka	2250 Kaulaau St, Hon. HI	96813-5311 (unlisted) 735-0014 <i>Ravena K. Keaka</i>
Donette S. Carlisle	919B 12TH AVE., Hon., HI	96817 <i>Donette S. Carlisle</i>
Heather Sikas	1903 Kihuna St., Hon HI	96817 <i>Heather Sikas</i>
S. Izumi-zaki	3301 HAWAIIAN DR. Hon. HI	96822 <i>S. Izumi-zaki</i>
CARL GRUEBL	1551 S. Beretania #611 Hon HI	96826 <i>Carl Gruebl</i>
GREG MUKAI	91-102 Anole Pl. Ewa Beach HI	96806 <i>Greg Muki</i>
Laurel Lum	3330 Moohau Ave Honolulu, HI	96816 <i>Laurel Lum</i>

CERTIFICATE OF SERVICE

I hereby certify that a copy of PLAINTIFF'S MEMORANDUM was duly served upon the following party listed in the manner described thereto, their last-known address this date to:

	By US Mail	By Hand Mail
Dwayne D Yoshina		X
Chief Elections Officer		
Elections Office		
802 Lehua Ave.		
Pearl City, Hawaii		
96782		

Dated at Honolulu, Hawaii, October 12, 2006.


C Kai Jochanan Amsterdam
US Senate Candidate
Pro Se